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In re Application of
MEYER, et al.
Serial No.: 10/539,877
PCT No.: PCT/EP03/14029
Int. Filing Date: 08 December 2003
Priority Date: 18 December 2002
Atty Docket No.: 30882/SCG5205
For: FIRE PROTECTION MEANS AND
METHOD FOR THE PRODUCTION
THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 14 November 2006 to accept the application without the signature of co-inventor Paul Hendrikx.

BACKGROUND

On 08 December 2003, applicant filed international application PCT/EP03/14029 which claimed priority to a previous application filed 18 December 2002. A copy of the international application was transmitted from the international bureau on 01 July 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 18 June 2005.

On 15 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a preliminary amendment and an Information Disclosure Statement.

On 14 April 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 14 November 2006, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a five-month extension of time and payment of the appropriate

extension of time fee. With the filing of the extension of time petition, the present response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

Regarding item (2), applicant has provided evidence to support the contention that the non-signing inventor could not be located after a diligent effort. However, the new address provided on 14 November 2006 seems to indicate that the inventor may have indeed been found. Applicant should confirm in a renewed petition that Mr. Hendrikx has not responded to the mailing of 14 November 2006. If he has not returned an executed declaration, the renewed petition will be granted; or alternatively applicant may receive an executed declaration from Mr. Hendrikx in which case the petition would be moot.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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